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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

THE PEOPLE,

Plaintiff and Respondent,

v.

MICHAEL A. JAHINA,

Defendant and Appellant.

B230042

(Los Angeles County
Super. Ct. No. BA364516)

APPEAL from a judgment of the Superior Court of Los Angeles County.

Gail Ruderman Feuer, Judge. Affirmed.

William J. Kopeny for Defendant and Appellant.

Kamala D. Harris, Attorney General, Dane R. Gillette, Chief Assistant Attorney General, Lance E. Winters, Assistant Attorney General, Paul M. Roadarmel, Jr. and Robert C. Schneider, Deputy Attorneys General, for Plaintiff and Respondent.

Michael Alexander Jahina appeals from his conviction of one count of offering false evidence. We affirm.

FACTS AND PROCEEDINGS BELOW

Jahina wrecked his 2003 Porsche Boxster and decided to use the insurance money to convert the Boxster into a more prestigious Porsche Carrera GT3. Jahina contracted with Los Angeles Dismantlers for Porsches (LADP) to purchase the necessary parts. The Boxster and the parts were delivered to a body shop that made the conversion.

Soon after he picked up his converted Porsche, Jahina filed a complaint against LADP with the California Bureau of Automotive Repair (B.A.R.). Jahina told the B.A.R. investigator, Ronald Coble, “that he had contracted with [LADP] to have collision repairs done to his vehicle which included repairing the vehicle with new [original equipment manufacturer] Porsche parts” and that LADP was to use new parts “exclusively.” Instead, Jahina claimed, LADP sold him a mix of new and used parts. In support of his complaint Jahina furnished Coble with an email, purportedly sent to him by LADP, which stated that all parts sold to him would be factory new and an invoice listing the parts. Coble testified that the “gist” of Jahina’s complaint against LADP “involved not getting new parts[.]”

Coble referred Jahina’s complaint to the Los Angeles City Attorney for possible prosecution of LADP. In the course of the City Attorney’s investigation, a Los Angeles police officer assigned to conduct computer forensic investigations discovered that the email Jahina submitted to the B.A.R. had been altered. Language had been added stating: “Don’t worry about the parts. I already told you on the phone every part installed on your car will be brand new from the factory.” Brian Chinchilla, the LADP employee who wrote and sent the original email, testified that he did not include the language about all new factory parts and the email did not contain that language when he sent it to Jahina. To the contrary, Chinchilla stated, he specifically told Jahina that he was selling him a combination of new and used parts. Chinchilla also testified LADP’s invoice of parts sold to Jahina, that Jahina submitted to Coble, had been altered.

A jury convicted Jahina of one count of offering false evidence in an investigation authorized by law. (Pen. Code § 132)¹ The court placed him on three years probation on the condition, among others, that he pay restitution to LADP in the amount of \$52,519.80. Jahina filed a timely appeal.

DISCUSSION

I. JAHINA’S CONVICTION IS SUPPORTED BY SUBSTANTIAL EVIDENCE.

Jahina argues that his conviction is not supported by substantial evidence because (1) the prosecution’s evidence did not show that he had an intent to deceive when he offered the altered email and invoice to the B.A.R.; (2) the prosecution produced no evidence to show that the alleged altered documents pertained to any material issue under investigation by the B.A.R.; and (3) the prosecution did not produce evidence that Jahina personally altered the documents. None of these arguments have merit.

Section 132 states: “Every person who upon any trial, proceeding, inquiry, or investigation whatever, authorized or permitted by law, offers in evidence, as genuine or true, any book, paper, document, record, or other instrument in writing, knowing the same to have been forged or fraudulently altered or ante-dated, is guilty of [a] felony.”

The term “fraudulently altered” is not defined in section 132. Black’s Law Dictionary defines a “fraudulent alteration” in part as “[a] change in the terms of an instrument, document or other paper made with a dishonest and deceitful purpose” (Black’s Law Dictionary (6th ed. 1990) 662.) The jury could reasonably conclude from the evidence that Jahina or someone on his behalf changed the terms of the email and invoice for the “dishonest and deceitful purpose” of causing the B.A.R. to initiate criminal or administrative charges against LADP based on a false accusation.

The email and invoice Jahina submitted were material to the B.A.R.’s investigation of LADP because they supported Jahina’s claim that he was entitled to all new parts for his Porsche—the claim Coble, the B.A.R. investigator, testified was the

¹ All statutory references are to the Penal Code.

“gist” of Jahina’s complaint. The court did not err in sustaining the prosecutor’s objections to Jahina’s attempts to question witnesses about other aspects of the Porsche’s repair. Those aspects were totally irrelevant to the question whether Jahina knowingly submitted fraudulently altered documents to the B.A.R. in connection with Jahina’s complaint that LADP had promised him all new parts and sold him some used parts. Finally, there is no requirement in section 132 that the person who knowingly offers fraudulently altered documents must be the person who fraudulently altered them.

II. THE COURT DID NOT ERR IN FAILING TO INSTRUCT THE JURY ON THE MEANING OF THE TERMS “INVESTIGATION” AND “OFFERS IN EVIDENCE.”

Jahina next argues that the court erred in not instructing the jury on the meaning of the terms “investigation” and “offers in evidence” as used in section 132.² We disagree. The court’s instruction used language that closely paralleled the statute. It told the jury “the People must prove that . . . [t]he defendant offered documents in evidence in a proceeding, inquiry, or investigation[.]” The statute and the instruction are “comprised of words commonly understood by those familiar with the English language. Those words are not used in a technical sense peculiar to the law.” If Jahina believed these terms needed clarification he had to make a request. His failure to do so forfeits the issue on appeal. (*People v. Rundle* (2008) 43 Cal.4th 76, 151.)

² Jahina’s opening brief also mentions that the court did not instruct the jury to determine whether the B.A.R.’s investigation was “authorized or permitted by law.” He provides no argument and citation of authorities on this point so it is waived. (*People v. Stanley* (1995) 10 Cal.4th 764, 793.)

III. THE COURT DID NOT ERR IN INSTRUCTING THE JURY THAT THE PROSECUTION WAS NOT REQUIRED TO PROVE JAHINA HAD A MOTIVE TO COMMIT THE CRIME CHARGED.

The court gave the standard instruction that “[t]he People are not required to prove that the defendant had a motive to commit the crime charged.” Jahina contends the court erred in giving this instruction because it is inconsistent with the instruction the People must prove that Jahina presented the fraudulently altered documents “with the intent to deceive.” Jahina is wrong.

Motive and intent are not synonyms. “Motive” describes the *reason* a person chooses to commit a crime, e.g. to impress someone, to get revenge against someone. “Intent” describes the defendant’s mental state in committing the crime, e.g. intent to deceive. (*People v. Hillhouse* (2002) 27 Cal.4th 469, 503-504.)

DISPOSITION

The judgment is affirmed.

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ROTHSCHILD, Acting P. J.

We concur:

CHANEY, J.

JOHNSON, J.